

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re: )  
 )  
DARRIN A. STAVNESLI, ) Case No. 12-11126  
 ) Chapter 7  
Debtor )

**TRUSTEE'S MOTION TO SELL PROPERTY FREE AND CLEAR  
OF LIENS, CLAIMS, AND INTERESTS**

Michael S. Haenn, Chapter 7 Trustee for this case, moves this Court for an Order and for this Court's authority to sell property of the estate free and clear of all liens, claims, interests, pursuant to 11 U.S.C. § 363(b), (f), Fed.R.Bankr.P. 6004(c), and D.Me.LBR 6004-1. In support of this Motion the Trustee states as follows:

1. The Trustee seeks to sell certain real property situated generally at 3326 NW Ninth Street, Cape Coral, Florida, and more particularly described in the deed of Vincent Campanella et al. to the Debtor and Ellen A. Stavnesli ("Co-owner") dated April 23, 2005 and recorded with the Lee County Clerk of Courts at Book 4719, Page 1242 ("the Property"). The Property is a vacant lot.

2. The Trustee has obtained the authority of this Court to employ a real estate broker to sell the Property by an Order dated March 1, 2013.

3. The broker has received an offer to purchase the Property for the gross sum of \$12,000.00, which the Trustee believes to be a fair offer. The offer is reflected in the Contract annexed hereto as Exhibit A.

4. Although multiple attempts have been made to obtain the cooperation of the Co-owner in the sale of the Property, it is readily apparent that she has no intent to cooperate in the sale of, and will not consent to the sale of, the Property.

5. Without an Order of this Court the Trustee will be unable to fulfill his responsibility as Chapter 7 trustee and the interests of the Debtor in the Property (all of which constitutes non-exempt property of the estate) will not be realized.

6. The Trustee requests, pursuant to 11 U.S.C. § 363(f)(5), that the sale of the Property be free and clear of all liens, claims, and interests, with all such liens, claims, and interests

attaching to the net sale proceeds in the same order of their priority that they now have against the Property.<sup>1</sup>

7. The Trustee, in his business discretion, believes that the proposed sale is in the best interests of creditors and the estate in this case.

8. The Trustee further requests that the Notice of Intended Sale ("the Sale Notice") be served by the Clerk to the U.S. Trustee, counsel for Debtor, all entities known to have expressed an interest in a transaction with respect to the Property (if any), all parties known to claim or assert a lien on the Property (if any), all creditors of the Debtor and the estate, and all entities who have filed a notice of appearance and request for service of papers in this case.

WHEREFORE, Michael S. Haenn, Chapter 7 Trustee, requests that this Court enter an Order authorizing the Trustee to sell the Property free and clear of all liens, claims, and interests, and that the Court grant the Trustee such other and further relief as the Court deems appropriate.

Dated: April 24, 2013

/s/ Michael S. Haenn  
Michael S. Haenn  
Chapter 7 Trustee  
88 Hammond Street, 3<sup>rd</sup> Floor  
P.O. Box 915  
Bangor, Maine 04402-0915  
michael.haenn@7trustee.net

---

<sup>1</sup>Such liens, claims, and interests shall remain subject to all the Trustee's rights, remedies, claims, defenses, offsets, demands, causes of action, and objections.



Vacant Land Contract

PARTIES AND DESCRIPTION OF PROPERTY

1. SALE AND PURCHASE: MICHAEL HAENN CHAPTER 7 BANKRUPTCY ESTATE OF DARRIN A STAVNESLI ("Seller")  
and EDWARD J WISNIEFSKI AND LINDA J WISNIEFSKI ("Buyer")  
agree to sell and buy on the terms and conditions specified below the property ("Property") described as:  
Address: 3326 NW 9TH STREET, CAPE CORAL, FLORIDA 33983  
Legal Description: CAPE CORAL UNIT 60 BLK 4202 PB 19 PG 157 LOTS 27 THRU 29  
Including all improvements and the following additional property: NONE

PRICE AND FINANCING

2. PURCHASE PRICE: \$12,000 payable by Buyer in U.S. funds as follows:  
(a) \$ Deposit received (checks are subject to clearance) on \_\_\_\_\_ by  
for delivery to \_\_\_\_\_ ("Escrow Agent")  
Signature \_\_\_\_\_ Name of Company  
(Address of Escrow Agent) CAPE CORAL TITLE INSURANCE AGENCY INC  
(Phone # of Escrow Agent) 239-540-1555 - STEVE MERKLE  
(b) \$500 Additional deposit to be delivered to Escrow Agent by \_\_\_\_\_  
or 3 days from Effective Date (10 days if left blank).  
(c) Total financing (see Paragraph 3 below) (express as a dollar amount or percentage)  
(d) \$ Other: \_\_\_\_\_  
(e) \$11,500 Balance to close (not including Buyer's closing costs, prepaid items and prorations). All funds  
paid at closing must be paid by locally drawn cashier's check, official check or wired funds.

(f) (complete only if purchase price will be determined based on a per unit cost instead of a fixed price) The unit  
used to determine the purchase price is ☐ lot ☐ acre ☐ square foot ☐ other (specify: \_\_\_\_\_)  
prorating areas of less than a full unit. The purchase price will be \$ \_\_\_\_\_ per unit based on a calculation of total  
area of the Property as certified to Buyer and Seller by a Florida-licensed surveyor in accordance with Paragraph 8(c) of this  
Contract. The following rights of way and other areas will be excluded from the calculation: \_\_\_\_\_

3. CASH/FINANCING: (Check as applicable) ☒ (a) Buyer will pay cash for the Property with no financing contingency.  
☐ (b) This Contract is contingent on Buyer qualifying and obtaining the commitment(s) or approval(s) specified below (the  
"Financing") within \_\_\_\_\_ days from Effective Date (if left blank then Closing Date or 30 days from Effective Date, whichever  
occurs first) (the "Financing Period"). Buyer will apply for Financing within \_\_\_\_\_ days from Effective Date (5 days if left blank)  
and will timely provide any and all credit, employment, financial and other information required by the lender. If Buyer, after  
using diligence and good faith, cannot obtain the Financing within the Financing Period, either party may cancel this Contract  
and Buyer's deposit(s) will be returned after Escrow Agent receives proper authorization from all interested parties.

☐ (1) New Financing: Buyer will secure a commitment for new third party financing for \$ \_\_\_\_\_ or  
\_\_\_\_\_ % of the purchase price at the prevailing interest rate and loan costs based on Buyer's creditworthiness. Buyer will  
keep Seller and Broker fully informed of the loan application status and progress and authorizes the lender or mortgage  
broker to disclose all such information to Seller and Broker.

☐ (2) Seller Financing: Buyer will execute a ☐ first ☐ second purchase money note and mortgage to Seller in the  
amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_ % and payable as follows: \_\_\_\_\_

The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow forms generally  
accepted in the county where the Property is located; will provide for a late payment fee and acceleration at the mortgagee's

Buyer (Signature) and Seller (Signature) acknowledge receipt of a copy of this page, which is Page 1 of 7 Pages.

Rev. 4/07 © 2007 Florida Association of Realtors® All Rights Reserved

option if Buyer defaults; will give Buyer the right to prepay without penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller to obtain credit, employment and other necessary information to determine creditworthiness for the financing. Seller will, within 10 days from Effective Date, give Buyer written notice of whether or not Seller will make the loan.

☐ (3) Mortgage Assumption: Buyer will take title subject to and assume and pay existing first mortgage to \_\_\_\_\_

LNB# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at \$ \_\_\_\_\_ per month including principal, interest, ☐ taxes and insurance and having a ☐ fixed ☐ other (describe) \_\_\_\_\_

interest rate of \_\_\_\_\_% which ☐ will ☐ will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will purchase Seller's escrow account dollar for dollar. If the lender disapproves Buyer, or the interest rate upon transfer exceeds \_\_\_\_\_% or the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess, failing which this agreement will terminate and Buyer's deposit(s) will be returned.

#### CLOSING

4. CLOSING DATE; OCCUPANCY: This Contract will be closed and the deed and possession delivered on May 24 2013 ("Closing Date"). Unless the Closing Date is specifically extended by the Buyer and Seller or by any other provision in this Contract, the Closing Date shall prevail over all other time periods including, but not limited to, financing and feasibility study periods. If on Closing Date insurance underwriting is suspended, Buyer may postpone closing up to 5 days after the insurance suspension is lifted. If this transaction does not close for any reason, Buyer will immediately return all Seller-provided title evidence, surveys, association documents and other items.

5. CLOSING PROCEDURE; COSTS: Closing will take place in the county where the Property is located and may be conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds to Seller (in local cashier's checks if Seller requests in writing at least 5 days prior to closing) and brokerage fees to Broker as per Paragraph 17. In addition to other expenses provided in this Contract, Seller and Buyer will pay the costs indicated below.

(a) Seller Costs:

Taxes on the deed  
Recording fees for documents needed to cure title  
Title evidence (if applicable under Paragraph 8)  
Other: \_\_\_\_\_

(b) Buyer Costs:

Taxes and recording fees on notes and mortgages  
Recording fees on the deed and financing statements  
Loan expenses  
Lender's title policy at the simultaneous issue rate  
Inspections  
Survey and sketch  
Insurance  
Other: \_\_\_\_\_

(c) Title Evidence and Insurance: Check (1) or (2):

☒ (1) The title evidence will be a Paragraph 8(a)(1) owner's title insurance commitment. ☐ Seller will select the title agent and will pay for the owner's title policy, search, examination and related charges or ☒ Buyer will select the title agent and pay for the owner's title policy, search, examination and related charges or ☐ Buyer will select the title agent and Seller will pay for the owner's title policy, search, examination and related charges.

☐ (2) Seller will provide an abstract as specified in Paragraph 8(a)(2) as title evidence. ☐ Seller ☐ Buyer will pay for the owner's title policy and select the title agent. Seller will pay fees for title searches prior to closing, including tax search and lien search fees, and Buyer will pay fees for title searches after closing (if any), title examination fees and closing fees.

(d) Prorations: The following items will be made current and prorated as of the day before Closing Date: real estate taxes, interest, bonds, assessments, leases and other Property expenses and revenues. If taxes and assessments for the current year cannot be determined, the previous year's rates will be used with adjustment for any exemptions. PROPERTY TAX

DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

(e) Special Assessment by Public Body: Regarding special assessments imposed by a public body, Seller will pay (i) the full amount of fees that are certified, confirmed and ratified before closing and (ii) the amount of the last estimate of the assessment

Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is Page 2 of 7 Pages.

Rev. 4/07 © 2007 Florida Association of REALTORS® All Rights Reserved

111 if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing, and Buyer will  
112 pay all other amounts. If special assessments may be paid in installments ☐ Buyer ☒ Seller (if left blank, Buyer) shall pay  
113 installments due after closing. If Seller is checked, Seller will pay the assessment in full prior to or at the time of closing. Public  
114 body does not include a Homeowner Association or Condominium Association.  
115 (f) Tax Withholding: If Seller is a "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code requires  
116 Buyer to withhold 10% of the amount realized by the Seller on the transfer and remit the withheld amount to the Internal  
117 Revenue Service (IRS) unless an exemption applies. The primary exemptions are (1) Seller provides Buyer with an affidavit  
118 that Seller is not a "foreign person", (2) Seller provides Buyer with a Withholding Certificate providing for reduced or  
119 eliminated withholding, or (3) the gross sales price is \$300,000 or less. Buyer is an individual who purchases the Property to  
120 use as a residence, and Buyer or a member of Buyer's family has definite plans to reside at the Property for at least 50% of the  
121 number of days the Property is in use during each of the first two 12 month periods after transfer. The IRS requires Buyer and  
122 Seller to have a U.S. federal taxpayer identification number ("TIN"). Buyer and Seller agree to execute and deliver as directed  
123 any instrument, affidavit or statement reasonably necessary to comply with FIRPTA requirements including applying for a TIN  
124 within 3 days from Effective Date and delivering their respective TIN or Social Security numbers to the Closing Agent. If Seller  
125 applies for a withholding certificate but the application is still pending as of closing, Buyer will place the 10% tax in escrow at  
126 Seller's expense to be disbursed in accordance with the final determination of the IRS, provided Seller so requests and gives  
127 Buyer notice of the pending application in accordance with Section 1445. If Buyer does not pay sufficient cash at closing to  
128 meet the withholding requirement, Seller will deliver to Buyer at closing the additional cash necessary to satisfy the  
129 requirement. Buyer will timely disburse the funds to the IRS and provide Seller with copies of the tax forms and receipts.  
130 (g) 1031 Exchanges: If either Seller or Buyer wishes to enter into a like-kind exchange (either simultaneously with closing or  
131 after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will cooperate in all reasonable respects to  
132 effectuate the Exchange including executing documents; provided, however, that the cooperating party will incur no liability or  
133 cost related to the Exchange and that the closing shall not be contingent upon, extended or delayed by the Exchange.

#### 134 PROPERTY CONDITION

135 6. LAND USE: Seller will deliver the Property to Buyer at the time agreed in its present "as is" condition, with conditions  
136 resulting from Buyer's inspections and casualty damage, if any, excepted. Seller will maintain the landscaping and grounds in  
137 a comparable condition and will not engage in or permit any activity that would materially alter the Property's condition without  
138 the Buyer's prior written consent.

139 (a) Flood Zone: Buyer is advised to verify by survey, with the lender and with appropriate government agencies which flood  
140 zone the Property is in, whether flood insurance is required and what restrictions apply to improving the Property and  
141 rebuilding in the event of casualty.

142 (b) Government Regulations: Buyer is advised that changes in government regulations and levels of service which affect  
143 Buyer's intended use of the Property will not be grounds for canceling this Contract if the Feasibility Study Period has expired  
144 or if Buyer has checked choice (c)(2) below.

145 (c) Inspections: (check (1) or (2) below)

146 ☐ (1) Feasibility Study: Buyer will, at Buyer's expense and within \_\_\_\_\_ days from Effective Date ("Feasibility Study  
147 Period"), determine whether the Property is suitable, in Buyer's sole and absolute discretion, for \_\_\_\_\_  
148 use. During the Feasibility Study Period, Buyer may conduct a Phase I environmental

149 assessment and any other tests, analyses, surveys and investigations ("inspections") that Buyer deems necessary to  
150 determine to Buyer's satisfaction the Property's engineering, architectural and environmental properties; zoning and  
151 zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities;  
152 consistency with local, state and regional growth management plans; availability of permits, government approvals, and  
153 licenses; and other inspections that Buyer deems appropriate to determine the Property's suitability for the Buyer's  
154 intended use. If the Property must be rezoned, Buyer will obtain the rezoning from the appropriate government agencies.  
155 Seller will sign all documents Buyer is required to file in connection with development or rezoning approvals.

156 Seller gives Buyer, its agents, contractors and assigns, the right to enter the Property at any time during the Feasibility  
157 Study Period for the purpose of conducting inspections; provided, however, that Buyer, its agents, contractors and  
158 assigns enter the Property and conduct inspections at their own risk. Buyer will indemnify and hold Seller harmless  
159 from losses, damages, costs, claims and expenses of any nature, including attorneys' fees, expenses and liability  
160 incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of  
161 any and all inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a  
162 construction lien being filed against the Property without Seller's prior written consent. If this transaction does not  
163 close, Buyer will, at Buyer's expense, (1) repair all damages to the Property resulting from the inspections and return  
164 the Property to the condition it was in prior to conduct of the inspections, and (2) release to Seller all reports and other  
165 work generated as a result of the inspections.

166 Buyer will deliver written notice to Seller prior to the expiration of the Feasibility Study Period of Buyer's determination of  
167 whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance  
168 of the Property as suitable for Buyer's intended use in its "as is" condition. If the Property is unacceptable to Buyer and  
169 written notice of this fact is timely delivered to Seller, this Contract will be deemed terminated as of the day after the  
170 Feasibility Study period ends and Buyer's deposit(s) will be returned after Escrow Agent receives proper authorization from  
171 all interested parties.

172 ☒ (2) No Feasibility Study: Buyer is satisfied that the Property is suitable for Buyer's purposes, including being  
173 satisfied that either public sewerage and water are available to the Property or the Property will be approved for the

174 Buyer  and Seller  acknowledge receipt of a copy of this page, which is Page 3 of 7 Pages.

Rev. 4/07 © 2007 Florida Association of Realtors® All Rights Reserved

230 holiday, performance will be due the next business day. All time periods will end at 5:00 p.m. local time (meaning in the county  
239 where the Property is located) of the appropriate day.

240 (c) Force Majeure: Buyer or Seller shall not be required to perform any obligation under this Contract or be liable to  
241 each other for damages so long as the performance or non-performance of the obligation is delayed, caused or prevented  
242 by an act of God or force majeure. An "act of God" or "force majeure" is defined as hurricanes, earthquakes, floods, fire,  
243 unusual transportation delays, wars, insurrections and any other cause not reasonably within the control of the Buyer or  
244 Seller and which by the exercise of due diligence the non-performing party is unable in whole or in part to prevent or  
245 overcome. All time periods, including Closing Date, will be extended (not to exceed 30 days) for the period that the force  
246 majeure or act of God is in place. In the event that such "act of God" or "force majeure" event continues beyond the 30  
247 days in this sub-paragraph, either party may cancel the Contract by delivering written notice to the other and Buyer's  
248 deposit shall be refunded.

249 10. NOTICES: All notices shall be in writing and will be delivered to the parties and Broker by mail, personal delivery or electronic  
250 media. Buyer's failure to deliver timely written notice to Seller, when such notice is required by this Contract, regarding  
251 any contingencies will render that contingency null and void and the Contract will be construed as if the contingency did  
252 not exist. Any notice, document or item delivered to or received by an attorney or licensee (including a transaction  
253 broker) representing a party will be as effective as if delivered to or by that party.

254 11. COMPLETE AGREEMENT: This Contract is the entire agreement between Buyer and Seller. Except for brokerage  
255 agreements, no prior or present agreements will bind Buyer, Seller or Broker unless incorporated into this Contract.  
256 Modifications of this Contract will not be binding unless in writing, signed or initialed and delivered by the party to be bound. This  
257 Contract, signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated  
258 electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten  
259 terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid  
260 or unenforceable, all remaining provisions will continue to be fully effective. Buyer and Seller will use diligence and good faith in  
261 performing all obligations under this Contract. This Contract will not be recorded in any public records.

262 12. ASSIGNABILITY; PERSONS BOUND: Buyer may not assign this Contract without Seller's written consent. The terms  
263 "Buyer," "Seller," and "Broker" may be singular or plural. This Contract is binding on the heirs, administrators, executors, personal  
264 representatives and assigns (if permitted) of Buyer, Seller and Broker.

#### 265 DEFAULT AND DISPUTE RESOLUTION

266 13. DEFAULT: (a) Seller Default: If for any reason other than failure of Seller to make Seller's title marketable after diligent  
267 effort, Seller fails, refuses or neglects to perform this Contract, Buyer may choose to receive a return of Buyer's deposit without  
268 waiving the right to seek damages or to seek specific performance as per Paragraph 14. Seller will also be liable to Broker for the  
269 full amount of the brokerage fee. (b) Buyer Default: If Buyer fails to perform this Contract within the time specified, including  
270 timely payment of all deposits, Seller may choose to retain and collect all deposits paid and agreed to be paid as liquidated  
271 damages or to seek specific performance as per Paragraph 14; and Broker will, upon demand, receive 50% of all deposits paid  
272 and agreed to be paid (to be split equally among Brokers) up to the full amount of the brokerage fee.

273 14. DISPUTE RESOLUTION: This Contract will be construed under Florida law. All controversies, claims, and other matters in  
274 question arising out of or relating to this transaction or this Contract or its breach will be settled as follows:

275 (a) Disputes concerning entitlement to deposits made and agreed to be made: Buyer and Seller will have 30 days from  
276 the date conflicting demands are made to attempt to resolve the dispute through mediation. If that fails, Escrow Agent will  
277 submit the dispute, if so required by Florida law, to Escrow Agent's choice of arbitration, a Florida court or the Florida Real  
278 Estate Commission ("FREC"). Buyer and Seller will be bound by any resulting award, judgment or order. A broker's obligation  
279 under Chapter 475, FS and the FREC rules to timely notify the FREC of an escrow dispute and timely resolve the escrow  
280 dispute through mediation, arbitration, interpleader, or an escrow disbursement order, if the broker so chooses, applies only  
281 to brokers and does not apply to title companies, attorneys or other escrow companies.

282 (b) All other disputes: Buyer and Seller will have 30 days from the date a dispute arises between them to attempt to resolve  
283 the matter through mediation, failing which the parties will resolve the dispute through neutral binding arbitration in the  
284 county where the Property is located. The arbitrator may not alter the Contract terms or award any remedy not provided for  
285 in this Contract. The award will be based on the greater weight of the evidence and will state findings of fact and the  
286 contractual authority on which it is based. If the parties agree to use discovery, it will be in accordance with the Florida Rules  
287 of Civil Procedure and the arbitrator will resolve all discovery-related disputes. Any disputes with a real estate licensee named  
288 in Paragraph 17 will be submitted to arbitration only if the licensee's broker consents in writing to become a party to the  
289 proceeding. This clause will survive closing.

290 (c) Mediation and Arbitration; Expenses: "Mediation" is a process in which parties attempt to resolve a dispute by  
291 submitting it to an impartial mediator who facilitates the resolution of the dispute but who is not empowered to impose a  
292 settlement on the parties. Mediation will be in accordance with the rules of the American Arbitration Association ("AAA") or  
293 other mediator agreed on by the parties. The parties will equally divide the mediation fee, if any. "Arbitration" is a process in  
294 which the parties resolve a dispute by a hearing before a neutral person who decides the matter and whose decision is  
295 binding on the parties. Arbitration will be in accordance with the rules of the AAA or other arbitrator agreed on by the parties.  
296 Each party to any arbitration will pay its own fees, costs and expenses, including attorneys' fees, and will equally split the  
297 arbitrators' fees and administrative fees of arbitration. In a civil action to enforce an arbitration award, the prevailing party to  
298 the arbitration shall be entitled to recover from the nonprevailing party reasonable attorneys' fees, costs and expenses.

299 Buyer (Signature) and Seller (Signature) acknowledge receipt of a copy of this page, which is Page 5 of 7 Pages.  
Rev. 4/07 © 2007 Florida Association of REALTORS® All Rights Reserved

ESCROW AGENT AND BROKER

15. **ESCROW AGENT:** Buyer and Seller authorize Escrow Agent to receive, deposit and hold funds and other items in escrow and, subject to clearance, disburse them upon proper authorization and in accordance with Florida law and the terms of this Contract, including disbursing brokerage fees. The parties agree that Escrow Agent will not be liable to any person for misdelivery of escrowed items to Buyer or Seller, unless the misdelivery is due to Escrow Agent's willful breach of this Contract or gross negligence. If Escrow Agent interpleads the subject matter of the escrow, Escrow Agent will pay the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. All claims against Escrow Agent will be arbitrated, so long as Escrow Agent consents to arbitrate.

16. **PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify all facts and representations that are important to them and to consult an appropriate professional for legal advice (for example, interpreting contracts, determining the effect of laws on the Property and transaction, status of title, foreign investor reporting requirements, the effect of property lying partially or totally seaward of the Coastal Construction Control Line, etc.) and for tax, property condition, environmental and other specialized advice. Buyer acknowledges that Broker does not reside in the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. Buyer agrees to rely solely on Seller, professional inspectors and governmental agencies for verification of the Property condition and facts that materially affect Property value. Buyer and Seller respectively will pay all costs and expenses, including reasonable attorneys' fees at all levels, incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from Buyer's or Seller's misstatement or failure to perform contractual obligations. Buyer and Seller hold harmless and release Broker and Broker's officers, directors, agents and employees from all liability for loss or damage based on (1) Buyer's or Seller's misstatement or failure to perform contractual obligations; (2) Broker's performance, at Buyer's and/or Seller's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor; (3) products or services provided by any vendor; and (4) expenses incurred by any vendor. Buyer and Seller each assume full responsibility for selecting and compensating their respective vendors. This paragraph will not relieve Broker of statutory obligations. For purposes of this paragraph, Broker will be treated as a party to this Contract. This paragraph will survive closing.

17. **BROKERS:** The licensee(s) and brokerage(s) named below are collectively referred to as "Broker." Instruction to Closing Agent Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the brokers, except to the extent Broker has retained such fees from the escrowed funds. In the absence of such brokerage agreements, closing agent will disburse brokerage fees as indicated below. This paragraph will not be used to modify any MLS or other offer of compensation made by Seller or listing broker to cooperating brokers.

332*	<u>SANDRA THIBODEAU</u>	<u>SWFL REALTY GROUP</u>	
333*	<u>Selling Sales Associate/License No. 3044355</u>	<u>Selling Firm/Brokerage Fee: (\$ or % of Purchase Price)</u>	<u>5%</u>
334*	<u>SANDRA THIBODEAU</u>	<u>SWFL REALTY GROUP</u>	
335*	<u>Listing Sales Associate/License No. 3044355</u>	<u>Listing Firm/Brokerage fee: (\$ or % of Purchase Price)</u>	<u>5%</u>

ADDITIONAL TERMS

18. **ADDITIONAL TERMS:** buyer understands that this property is being handled by Michael S Haenn, Esq. Chapter 7 Trustee, Debtor Darrin A. Stavnesil, Case No. 12-11126 Chapter 7, United States Bankruptcy Court District of Maine. It may take longer than May 24, 2013 to close.

Buyer does understand that the agreement of the seller/Trustee to this contract is entirely dependent upon the authority provided to him by the U.S. Bankruptcy Court (D.Me.), which authority is limited to any Court Order issued by said Court; and that the Trustee acts solely in such a representative capacity.

Buyer and Seller acknowledge receipt of a copy of this page, which is Page 6 of 7 Pages.  
Rev. 4/07 © 2007 Florida Association of Realtors® All Rights Reserved

359\*  
360\*  
361\*  
362\*  
363\*  
364\*  
365\*  
366\*  
367\*  
368\*  
369\*  
370\*  
371\*  
372\*  
373\*  
374\*  
375\*

376 This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney prior to signing.

377 OFFER AND ACCEPTANCE

378 (Check if applicable: ☐ Buyer received a written real property disclosure statement from Seller before making this Offer.)  
379 Buyer offers to purchase the Property on the above terms and conditions. Unless this Contract is signed by Seller and a  
380 copy delivered to Buyer no later than 5:00 ☐ a.m. ☒ p.m. on May 23, 2013 this offer will be  
381 revoked and Buyer's deposit refunded subject to clearance of funds.

4/18/13  
X  
LW-4/18/13

382 COUNTER OFFER/ REJECTION

383 ☐ Seller counters Buyer's offer (to accept the counter offer, Buyer must sign or initial the counter offered terms and deliver a  
384 copy of the acceptance to Seller. Unless otherwise stated, the time for acceptance of any counteroffers shall be 2 days from  
385 the date the counter is delivered. ☐ Seller rejects Buyer's offer.

386 Date: 3/26/13 Buyer: Edward J Wisniefski  
387 Print name: EDWARD J WISNIEFSKI

388 Date: 3/26/13 Buyer: Linba J Wisniefski  
389 Phone: \_\_\_\_\_ Print name: LINBA J WISNIEFSKI  
390 Fax: \_\_\_\_\_ Address: CAPE CORAL, FLORIDA  
391 E-mail: \_\_\_\_\_

392 Date: 4/16/13 Seller: \_\_\_\_\_  
393 Print name: MICHAEL J. HARRIS, Chapter 7 Trustee  
CASE # 12-11126 BARRA HARRIS

394 Date: \_\_\_\_\_ Seller: \_\_\_\_\_  
395 Phone: \_\_\_\_\_ Print name: \_\_\_\_\_  
396 Fax: \_\_\_\_\_ Address: \_\_\_\_\_  
397 E-mail: \_\_\_\_\_

398 Effective Date: \_\_\_\_\_ (The date on which the last party signed or initialed and delivered the final offer or counteroffer.)

399 Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is Page 7 of 7 Pages.

The Florida Association of Realtors and local Board/Association of Realtors make no representation as to the legal validity or adequacy of any provision of this form in any specific transaction. This standardized form should not be used in complex transactions or with extensive riders or addendums. This form is available for use by the entire real estate industry and is not intended to identify the user as a Realtor. Realtor is a registered collective membership mark that may be used only by real estate licensees who are members of the National Association of Realtors and who subscribe to its Code of Ethics. The copyright laws of the United States (17 U.S.C.) forbid the unauthorized reproduction of blank forms by any means including facsimile or computerized forms.  
Rev. 4/07 © 2007 Florida Association of Realtors® All Rights Reserved



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re: )  
 )  
DARRIN A. STAVNESLI, ) Case No. 12-11126  
 ) Chapter 7  
Debtor )

NOTICE OF MOTION AND HEARING

**PLEASE TAKE NOTICE THAT**, pursuant to 11 U.S.C. §§ 105, 363, Fed.R.Bankr.P 2002, 6004, and 9013, and D.Me.LBR 2002-1(a)(1), 6004-1, and 9013-1(a), Michael S. Haenn, Chapter 7 Trustee ("the Trustee"), intends to sell the estate's interest in real property situated generally at 3326 NW Ninth Street, Cape Coral, Florida, and more particularly described in the deed of Vincent Campanella et al. to the Debtor and Ellen A. Stavnesli ("Co-owner") dated April 23, 2005 and recorded with the Lee County Clerk of Courts at Book 4719, Page 1242 ("the Property"). The Property is a vacant lot.

The sale by the Trustee shall be free and clear of all liens, claims, and interests, with all such liens, claims, and interests attaching to the net sale proceeds in the order of their priority, with the same validity, force, and effect that they now have as against the estate's interest in the Property, subject to all available rights, remedies, claims, defenses, offsets, demands, causes of action, and objections. The Trustee is not aware of any valid liens, claims or encumbrances on the Property.

Any objections to the proposed Trustee's sale must be made in writing on or before May 20, 2013, and be filed with the U.S. Bankruptcy Court at 202 Harlow Street, 3rd Floor, Bangor, ME 04401, with a copy to the Trustee at: Michael S. Haenn, Chapter 7 Trustee, P.O. Box 915, Bangor, ME 04402-0915, and received by the Trustee on or before May 20, 2013.

You may attend the hearing on the Trustee's Motion to Sell Property Free and Clear of Liens, Claims, and Interests which will be held on June 13, 2013 at 10:00 a.m., at the U.S. Bankruptcy Court, 202 Harlow Street, Bangor, Maine 04401. The hearing may be postponed or rescheduled from time to time, without further notice, except as may be provided at the hearing.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Absent a timely written objection, the Trustee's sale may be approved by the Bankruptcy Court without further notice or hearing.

Dated: April 24, 2013

/s/ Michael S. Haenn  
Michael S. Haenn  
Chapter 7 Trustee  
88 Hammond Street, 3<sup>rd</sup> Floor  
P. O. Box 915  
Bangor, Maine 04402-0915

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re: )  
)  
DARRIN A. STAVNESLI, ) Case No. 12-11126  
) Chapter 7  
Debtor )

CERTIFICATE OF SERVICE

I, Michael S. Haenn, Esq., Chapter 7 Trustee, do hereby certify that I have this same date served a true and correct copy of the Motion to Sell Property Free and Clear of Liens, Claims and Interests, Notice of Motion and Hearing and proposed Order dated April 24, 2013 and, on each of the parties and at the addresses set forth hereinbelow via first-class mail and properly sealed, stamped and addressed:

U.S. Trustee served electronically  
[ustpreion01.po.ecf@usdoj.gov](mailto:ustpreion01.po.ecf@usdoj.gov)

Perry O'Brian, Esq. served electronically  
Debtor's Counsel [obrianpa@roadrunner.com](mailto:obrianpa@roadrunner.com)

Christine E. Johnson, Esq. served electronically  
Counsel for U.S. Bank [bkecf@bmprc-law.com](mailto:bkecf@bmprc-law.com)  
National Association

Darrin A. Stavnesli  
P.O. Box 131  
Bangor, ME 04402-0131

Sandra J. Thibodeau / SWFL Realty Group  
1326 Cape Coral Parkway E Unit 2  
Cape Coral, FL 33904

Bangor Federal Credit Union  
P.O. Box 1161  
Bangor, ME 04402-1161

Bangor Hydro Electric Co.  
Attn: Nathan J. Martell, Esq.  
P.O. Box 932  
Bangor, ME 04402-0932

Bank Of America  
P.O. Box 982235  
El Paso, TX 79998-2235

Bendett & McHugh  
270 Farmington Ave., Ste. 151  
Farmington, CT 06032-1926

Bsi Financial Services  
A Commom Wealth Place  
P.O. Box 517  
Titusville, PA 16354-0517

CBCS  
236 East Town Street  
P.O. Box 164089  
Columbus, OH 43216-4089

Capital One Bank  
P.O. Box 30285  
Salt Lake City, UT 84130-0285

Discover Bank  
DB Servicing Corporation  
P.O. Box 3025  
New Albany, OH 43054-3025

Discover Fin Svcs Llc  
P.O. Box 15316  
Wilmington, DE 19850-5316

Ellen Stavnesli  
c/o Christmas Vacation Shop  
110 Main Street  
Bar Harbor, ME 04609-1873

Emerge  
P.O. Box 105555  
Atlanta, GA 30348-5555  
Emerson Energy Fuels  
234 Main Street  
Ellsworth, ME 04605-1612

Equable Ascent Financial  
1120 W Lake Cook Rd  
Buffalo Grove, IL 60089-1970

Fairpoint Communications  
521 East Morehead Street  
Charlotte, NC 28202-2631

Fairpoint Communications  
P.O. Box 11021  
Lewiston, ME 04243-9472

Fnb Omaha  
P.O. Box 3412  
Omaha, NE 68197-0001

G M Pollack & Sons Jewelers  
600 Roundwood Drive  
Scarborough, ME 04074-8247

GE Capital Retail Bank  
Attn: Bankruptcy Dept.  
P.O. Box 103104  
Roswell, GA 30076-9104

GECRB/Lowes  
P.O. Box 103065  
Roswell, GA 30076

Kay Jewelers  
375 Ghent Rd  
Fairlawn, OH 44333-4600

Mercantile Adjustment  
Bureau  
6341 Inducon Drive East  
Sanborn, NY 14132-9097

NuView Financial Services  
7505 Irvine Center Drive  
Irvine, CA 92618-2991

Penobscot Community Health  
Center  
Attn: Billing Dept  
P.O. Box 1599  
Bangor, ME 04402-1599

Susan Snyder, Esq.  
P.O. Box 123  
Bass Harbor, ME 04653-0123

Susan Szwed, Esq.  
PMB 815  
P.O. Box 9715  
Portland, ME 04104-5015

Thd/Cbna  
P.O. Box 6497  
Sioux Falls, SD 57117-6497

VIP #41  
24 Downeast Highway  
Ellsworth, ME 04605-1731

Wells Fargo Bank Nv Na  
P.O. Box 31557  
Billings, MT 59107-1557

Wells Fargo Bank NA  
Wells Fargo Home Mortgage  
Americas Servicing  
Attn: Bankruptcy Dept.  
MAC X7801-014  
3476 Stateview Blvd  
Fort Mill, SC 29715-7203

Wffnatbank  
P.O. Box 94498  
Las Vegas, NV 89193-4498

Wffnb/Rooms To Go  
P.O. Box 94498  
Las Vegas, NV 89193-4498

Dated: April 24, 2013

/s/ Michael S. Haenn  
Michael S. Haenn  
Chapter 7 Trustee  
88 Hammond Street, 3<sup>rd</sup> Floor  
P. O. Box 915  
Bangor, Maine 04402-0915